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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,027	07/25/2001	Adrianus J. van den Nieuwelaar	V0028/260870	9327

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EXAMINER

COPIER, FLORIS C

ART UNIT PAPER NUMBER

3643

DATE MAILED: 09/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/915,027	Applicant(s) NIEUWELAAR ET AL.	
	Examiner Chad Copier	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 58 and 60-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 58 and 60-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

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PMT

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 58 and 60-65 and 67-72 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyn et al. (US 4418445).

As to claims 58, 62, 73 and 74, Meyn discloses a method for processing a slaughtered bird comprising breaking at least one tissue connection between the belly skin and the viscera of the bird prior to evisceration of the carcass of the bird (col 1 lines 58-68). Additionally, the member moves in a plane substantially parallel to the plane of the belly skin (col 3 lines 58-60).

As to claims 63, 70, 71 and 75, the tissue in Meyn is separated by a separating means (24) introduced into the carcass of the bird through the vent hole in the skin (col 1 lines 58-68).

As to claims 60 and 64, Meyn's separating means are rotated in the carcass (col 3 lines 23-25).

As to claims 61 and 65, Meyn's separating means scrapes the inside of the skin, stretching the skin out from the body (col 1 lines 58-68).

As to claim 67-69 and 72, Meyn discloses a method for inserting a substantially elongated element (21) with a free end (near 24) under the skin of the belly of a slaughtered bird which is provided with a hole in the skin obtained by cutting out the

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vent (col 1 lines 58-68) comprising: inserting a protection element (25) through the hole and into the bird, wherein the protection element comprises a stop face (24) adapted for pushing away the viscera from the hole; positioning the free end (21 near 24) of the elongated element in the hole near the stop face; and rotating the elongated element to insert the free end of the elongated element under the skin (col 1 lines 58-68, col 3 lines 23-25).

As to claim 69, the element of Meyn is plate shaped (Fig 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 66 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyn et al. ('445) in view of Meyn (US 4059868). Meyn '445 discloses all of the features of the invention as described above except a second moving means for placing a protection element in the carcass prior to or during moving the separating means in the carcass.

Meyn '868 discloses a second moving means (20) for placing a protection element (23) in the carcass prior to or during moving the separating means (24) in the carcass (Fig 2).

It would have been obvious to one having ordinary skill in the art to include an additional member inserted into the bird such as that of Meyn '868 with the device of Meyn '445 because it would help to stabilize the carcass and help hold the viscera away from the separating member.

Response to Arguments

Applicant's arguments filed 8-22-02 have been fully considered but they are not persuasive. In response to the argument that the extended arm of Meyn does not move in a parallel manner to the belly skin, examiner notes that the invention of Meyn first inserts the member through the vent hole downwardly (parallel to the skin) and then swings it outward and upward which is also parallel to the surface of the skin because the skin is not broken and follows the movement of the member.

In response to the argument that there are not two separate members inserted and that the protection element and separation element cannot be the same element. The examiner points out that the elements are considered as different elements. The protection element (25) is the actual tip designed to protect the entrails from the cutting mechanism and the elongated element (24 near 25) to which the protection element is attached (Fig 3). It is further noted that the rejections and explanations of the elements of the invention as anticipated by the references may be different for each of the different independent claims. Because the examiner identifies an element in the prior art as reading on a particular element of the instant invention does not preclude the examiner from assigning that same element to a different claimed element in a separate and distinct element in a different independent claim because they represent different inventions.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

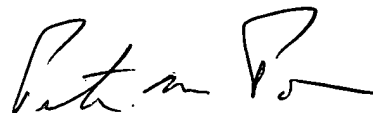
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chad Copier whose telephone number is 703-306-0939. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-306-4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

fcc
September 3, 2002



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